

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JOHNNY D. SHEPHERD,
Petitioner,

No. 1:09-cv-1284-CL

v.

MARK NOOTH,
Respondent.

ORDER

PANNER, District Judge:

Magistrate Judge Mark D. Clarke filed a Report and Recommendation, and the matter is now before this court. See 28 U.S.C. § 636(b)(1)(B), Fed. R. Civ. P. 72(b). When either party objects to any portion of a Magistrate Judge's Report and Recommendation, the district court makes a de novo determination of that portion of the Magistrate Judge's report. 28 U.S.C. § 636(b)(1)(C); McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F. 2d 1309, 1313 (9th Cir. 1981).

Here, petitioner objects to the Report and Recommendation, so

I have reviewed this matter de novo. I agree with Magistrate Judge Clarke that the amended petition fails on its merits. Accordingly, I ADOPT the Report and Recommendation of Magistrate Judge Clarke.

CONCLUSION

Magistrate Judge Clarke's Report and Recommendation (#52) is adopted. The amended petition (#47) is denied. If petitioner appeals, I will deny a certificate of appealability because petitioner has not made a substantial showing of the denial of a constitutional right.

IT IS SO ORDERED.

DATED this 2/ day of June, 2012.

A handwritten signature in black ink, reading "Owen M. Panner", is written over a horizontal line.

OWEN M. PANNER
U.S. DISTRICT JUDGE